

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

ROYAL YATES,)
Plaintiff(s),)
v.)
GUNN ALLEN FINANCIAL and)
CURT WILLIAMS,)
Defendant(s).)

No. C05-1510 BZ
**ORDER GRANTING
MOTION FOR PREJ
INTEREST**

In this action containing both federal and state claims, the court agrees with plaintiff that inasmuch as an award of punitive damages was returned, implicitly the jury found for plaintiff on his state law churning claim. Because, in a diversity case, a federal court applies the choice of law principles of the state in which it sits for substantive matters of law, and prejudgment interest is a component of substantive damages, California law governs plaintiff's entitlement to prejudgment interest in this diversity action.

1 California law also determines the appropriate prejudgment
2 interest rate in this case. Citicorp Real Estate, Inc. v.
3 Smith, 155 F.3d 1097, 1107 (9th Cir. 1998). Defendants do not
4 dispute this. Plaintiff's entitlement to, and the amount of,
5 prejudgment interest are therefore governed by California
6 Civil Code § 3287.

7 The compensatory damages in this case were such that the
8 defendants either knew the amount owed or could have readily
9 computed it from their records. The error made by plaintiff's
10 damages expert was one of methodology; not computation. The
11 jury did not have to resolve any disputes as to the amount of
12 any loss. Defendants' liability was for a sum certain and an
13 award of prejudgment interest is therefore mandatory under
14 California Civil Code § 3287(a). See Arceneaux v. Merrill
15 Lynch, Pierce, Fenner & Smith, Inc., 767 F.2d 1498, 1504 (11th
16 Cir. 1985)(in a Florida churning case, where state law
17 precluded an award of prejudgment interest on unliquidated
18 claims, the jury award was "in the nature of a liquidated
19 claim" because the jury awarded plaintiff's total claimed loss
20 and "did not really resolve any dispute as to the amount of
21 the claimed loss"). Here, the jury awarded plaintiff \$240,382
22 in compensatory damages, the amount he sought from the jury.
23 The jury award closely matched the amount prayed for in the
24 complaint - approximately \$250,000. Once the jury determined
25 that plaintiff was entitled to damages, it did not need to
26 resolve any dispute as to the amount but awarded plaintiff's
27 claimed amount.

28 Furthermore, the appropriate rate of interest is 7%.

Continental Airlines, Inc. v. McDonnell Douglas Corp., 216 Cal.App.3d 388, 434 (1989)(setting 7% as the correct prejudgment interest rate in a case for fraud and breach of contract because "there is no relevant legislative act specifying a rate of prejudgment interest for a fraud claim"). See also Northrop Corp., 842 F.2d at 1155 (citing Pacific-Southern Mortgage Trust Co. v. Insurance Co. of North America, 166 Cal.App.3d 703, 716 (1985)). Although plaintiff agrees that "well-settled case law would call for a rate of 7%," Rep. 5:1-4, without citing any authority other than his reading of the California Constitution, he asks the court to refrain from following this case law. The court declines to do so in a diversity case and will apply a prejudgment interest rate of 7%. **IT IS THEREFORE ORDERED** that plaintiff's motion is **GRANTED** and he is awarded prejudgment interest at the rate of 7% from May 8, 2004, the day he stopped trading. The parties are **ORDERED** to calculate the amount of the prejudgment interest consistent with this opinion and file a stipulation by June 26, 2006 as to the amount.

Dated: June 21, 2006

Bernard Zimmerman
United States Magistrate Judge

United States Magistrate Judge

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